

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Bruce Bent et al.  
Title: SYSTEMS AND METHODS FOR  
ADMINISTERING RETURN  
SWEEP ACCOUNTS  
Appl. No.: 10/071,053  
Filing Date: 02/08/2002  
Examiner: James Bradley Wright  
Art Unit: 3693  
Confirmation No. 9308

**DECLARATION OF BRUCE BENT II**  
**UNDER 37 C.F.R. § 1.132 ON COMMERCIAL SUCCESS AND LONG FELT NEED**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, the undersigned Bruce Bent II, an American citizen with an office at 1250 Broadway, New York, NY 10001-3701, USA, hereby declare and state that:

**Background**

1. I am a co-inventor of the invention described and claimed in the above-captioned patent application. I am familiar with the claims and specification of the above-referenced application and with U.S. Patent No. 4,985,833. ("the '833 patent"), and have read the Office action mailed April 5, 2007 and the Examiner's Interview Summary for the interview with my representatives held on May 7, 2008.

2. I am Vice Chairman and President of Reserve Management Corporation 1250 Broadway, New York, New York 10001-3701, the assignee of the present application, and in

that capacity, I have managed and overseen Reserve Management Corporation conception and development of a commercial product, offered under the name of "Reserve Insured Deposits," implementing the invention described in the above-referenced application.

3. Prior to Reserve Management Corporation I worked at The Reserve Funds for fourteen years and continue to do so as President. I am a Graduate of Northeastern University. Thus, I have 16 years in the banking industry.

4. My father and I invented the inventions disclosed in the present application.

5. Our company implemented the invention beginning in 2006. Details of this implementation will be provided below.

6. The invention has been commercially successful.

7. Initially our company had created and offered a program referred to as the Return Sweep product for accounts under \$100,000 for use with a single bank beginning in 2000 with Frontier Bank. This product ultimately has attained \$6.1 Billion in assets as of the time of this Declaration with over 241 banks set up to use the single bank product, and we currently average the adoption of this product by ten new banks a month.

#### **COMMERCIAL SUCCESS OF THE CLAIMED INVENTIONS**

8. In 2006 our company went live with a multi-bank product with broker dealer A, where broker dealer A was in an infrastructure with a startup affiliated bank. The multi-bank product was programmed to provide to their clients \$1 Million of FDIC insurance, while retaining a specified amount from each of a plurality of broker dealer A's clients in the startup bank affiliated with broker dealer A. Accordingly, our product was used to fund the startup affiliated bank. Total assets in this multi-bank product now total \$1.3 Billion, with the startup bank affiliated with the broker dealer A taking in \$367 million in deposits.

9. In 2007 broker dealer B had \$8.2 Billion in assets. Broker dealer B was acquired by another banking institution and became part of the infrastructure of that acquiring banking institution in the fourth quarter of 2007. \$7 billion of the assets of broker dealer B were then used to fund a bank affiliated with this acquiring banking institution through the use of our multi-bank product that provided to their clients \$1,000,000 of FDIC insurance, but retained a

specified amount from each of a plurality of broker dealer B's clients in this affiliated bank. Note that the banking institution associated with broker dealer B recently reorganized and moved all of the money into the affiliated bank or one of its charters and offers \$300,000 of FDIC insurance.

10. Evidence of commercial success is shown by the following. The claim language for claim 49 is recited. The bracketed annotations within the claim explain how the claim elements read on the product. The product used for both of broker dealers A and B comprised, per claim 49, is a computer-implemented method for managing funds for a plurality of client accounts for a plurality of clients whose funds were accepted for deposit in respective client accounts held in the names of the respective clients at a first banking institution [*accounts at the respective broker dealers within the infrastructure for the first banking institution*] that includes a first bank [*the affiliated bank*] in its infrastructure, the method comprising:

(a) maintaining a plurality of FDIC-insured and interest-bearing aggregated deposit accounts, each aggregated deposit account held in a different respective bank of a different respective banking institution [*Reserve Management Corporation maintained and maintains a plurality of FDIC-insured, interest-bearing aggregated accounts, each held in a different respective bank of a different respective banking institution*] including an FDIC-insured and interest-bearing aggregated deposit account held at the first bank [*the affiliated bank*] in the first banking institution;

(b) maintaining or having maintained an electronic database [*Reserve Management Corporation maintained and maintains an electronic database with information on the funds of each client in the aggregated accounts in the plurality of banks*], on one or more computers, containing information on funds held by each client in the plurality of aggregated deposit accounts;

(c) administering [*Reserve Management Corporation administered and administers the aggregated accounts to transfer or have transferred client funds into the aggregated account at the affiliated bank at the first banking institution except for a client with a balance of funds in the aggregated deposit account at the affiliated bank that equals or exceeds a specified amount depositing or having deposited additional funds of that client to one of the*

*aggregated deposit accounts in one of the different banks*] the aggregated deposit accounts to transfer or have transferred client funds that had been accepted into respective client accounts held in the names of the respective clients at the first banking institution [*at the broker dealer in the infrastructure for the first banking institution*] to the aggregated deposit account at the first bank [*the affiliated bank in the first banking institution*] except that for clients with a balance of funds in the aggregated deposit account at the first bank that equal or exceed a specified amount depositing or having deposited additional funds of that client to one of the aggregated deposit accounts in one of the different banks in one of the different banking institutions;

(d) withdrawing or having withdrawn [*Reserve Management Corporation had this withdrawal step performed*] client funds from the FDIC-insured and interest-bearing aggregated deposit account held at the first bank [*the affiliated bank in the first banking institution*] using a method of withdrawal that allows an unlimited number of transactions per month while preserving an insured and interest-bearing status of the FDIC-insured and interest-bearing aggregated deposit account held at the first bank; and

(e) updating [*Reserve Management Corporation updated its electronic database to reflect these transfers and withdrawals*] or having updated the electronic database based on the transfers to and withdrawals in the plurality of aggregated deposit accounts. Note that claim 57 is similar and the same commercial success evidence applies to this claim.

11. In 2005 our company went live with a multi-bank product for a self clearing broker dealer C. Broker dealer C did not have any of its own client accounts, but rather provided clearing services for other regional (correspondent) broker dealers that do not wish to self clear or cannot self clear. The multi-bank product was programmed to provide \$1 Million of FDIC insurance to clients of these correspondent broker dealers, while retaining a specified amount from each of a plurality of these correspondent broker dealer clients in a bank affiliated with the respective correspondent broker dealer. Accordingly, each of these correspondent broker dealers was given the option to have our company create an FDIC-insured interest-bearing aggregated account within a bank affiliated and within the infrastructure of the correspondent broker dealer and to program the system to put a specified amount, e.g., an amount less than or equal to \$100,000, of each of its clients into the bank within its infrastructure. Broker dealer C has acquired over \$3 Billion in assets in the program and 195 correspondent broker dealers. Of these

correspondent broker dealers, two correspondent broker dealers have gone live with an affiliated bank within their infrastructure and used the multi-bank product to funnel the specified amount from each of a plurality of the clients of the respective broker dealer to fund that affiliated bank. For one of these correspondent broker dealers, \$146 million was funneled into its affiliated bank. For the other correspondent broker dealer, \$250 was funneled into its affiliated bank.

Claim 64 reads on the products of broker dealer C, as well as the products used with broker dealers A and B. The product comprised, per claim 64, a computer-implemented method for managing funds for a plurality of client accounts for a plurality of clients of a first banking institution [*clients of the broker dealer in the infrastructure of the first banking institution*] that includes a first bank in its infrastructure [*the affiliated bank in the first banking institution*], wherein the respective client funds were accepted for deposit in respective client accounts held in the names of the respective clients, the method comprising:

(a) maintaining a plurality of FDIC-insured and interest-bearing aggregated deposit accounts, each aggregated deposit account held in a different respective bank of a different respective banking institution [*Reserve Management Corporation maintained and maintains a plurality of FDIC-insured, interest-bearing aggregated accounts, each held in a different respective bank of a different respective banking institution*] including an FDIC-insured and interest-bearing aggregated deposit account held at the first bank [*the affiliated bank*] in the first banking institution;

(b) maintaining or having maintained an electronic database [*Reserve Management Corporation maintained and maintains an electronic database with information on the funds of each client in the aggregated accounts in the plurality of banks*], on one or more computers, containing information on funds held by each client in the plurality of aggregated deposit accounts;

(c) administering [*Reserve Management Corporation administered and administers the aggregated accounts to transfer client funds into the aggregated account at the affiliated bank at the first banking institution except for a client with a balance of funds in the aggregated deposit account at the affiliated bank that equals or exceeds a specified amount depositing or having deposited additional funds of that client to one of the aggregated deposit accounts in one of the different banks*] the aggregated deposit accounts to transfer or have

transferred client funds that had been accepted into respective client accounts held in the names of the respective clients at the first banking institution to the aggregated deposit account at the first bank [*the affiliated bank in the first banking institution*] except that for clients with a balance of funds in the aggregated deposit account at the first bank that equal or exceed a specified amount depositing or having deposited additional funds of that client to one of the aggregated deposit accounts in one of the different banks in one of the different banking institutions;

(d) withdrawing or having withdrawn [*Reserve Management Corporation had this withdrawal step performed*] client funds from the FDIC-insured and interest-bearing aggregated deposit account held at the first bank [*the affiliated bank in the first banking institution*] using a method of withdrawal that allows an unlimited number of transactions per month while preserving an insured and interest-bearing status of the FDIC-insured and interest-bearing aggregated deposit account held at the first bank; and

(e) updating [*Reserve Management Corporation updated its electronic database to reflect these transfers and withdrawals*] or having updated the electronic database based on the transfers to and withdrawals in the plurality of aggregated deposit accounts.

12. Note that claim 72 is similar and the same commercial success evidence applies to this claim.

#### **Conclusion Regarding Commercial Success Of The Present Invention**

13. In my opinion, based on the above evidence, **The Reserve Cash Sweep**<sup>SM</sup> product, which comprises the claimed invention, has been and continues to be a commercial success from a time almost immediately after introduction.

#### **LONG FELT NEED FOR THE CLAIMED INVENTION**

14. In my experience, there has been a long felt need in the banking industry for a financial product that provides insurance for accounts over \$100,000 and at the same time keeps substantial funds on the balance sheet of the bank and allows unlimited withdrawals from the account. Oncken did create a product in 1988 to provide insurance and interest for accounts over \$100,000, but taught that this money could not be kept in a given bank and have unlimited withdrawals in a month (exactly the opposite of our system). The money had to be shifted to a

## Declaration of Bruce Bent II

new bank after five withdrawals. Before our invention, nobody had constructed a system or method based on Reg. D to keep a substantial portion of the money in the same bank for accounts over \$100,000 and allow unlimited withdrawals.

15. Accordingly, it is my opinion as a person of at least ordinary skill in the art, and probably more than ordinary skill in the art, based on the foregoing evidence of commercial success for this product beginning at least as early as 2006, and the long felt need for this product, that the claimed invention is non-obvious.

13. I hereby declare that all statements made herein, unless otherwise indicated, are of my own knowledge and are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements can jeopardize the validity of any patent issuing from the captioned application or claiming the benefit of its priority.

Dated: June 4, 2008

Signed by: \_\_\_\_\_

Bruce Bent II